

REMARKS

The Examiner has rejected Claims 7, 15, and 35 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to Claim 7, the Examiner begins by taking issue with the claimed "previous debit account" since it is allegedly unclear. Further, the Examiner states that it will be interpreted as "[t]ransferring the payment from the debit account in response to the request." Applicant respectfully disagrees with the Examiner's interpretation. It is clear, from the claim language itself, that the "previous debit account," as disclosed and claimed by applicant, should be interpreted as a debit account that is previously provided.

Further, with respect to Claim 15, the Examiner continues by taking issue with the claimed "engage in wireless network" since it is allegedly unclear. The Examiner continues by stating that it will be interpreted as "[u]ser may authorize payment of another users wireless network voice communication and IP usage upon receipt of the key by said user." Applicant respectfully disagrees with the Examiner's interpretation and respectfully asserts that the claimed technique "wherein another user may engage in the wireless network voice communication and the IP usage upon receipt of the key" should be read in the context of its plain and ordinary meaning.

In addition, with respect to Claim 35, the Examiner concludes by taking issue with "Logic for" as "[t]he systems claim does not appear to have any physical element to be considered as part of the claimed system." Thus, the Examiner interpreted the claim as "Mean for" instead of "logic for." Applicant respectfully disagrees with such interpretation and asserts that various examples of logic are set forth in the description of Figure on pages 8-9 of the specification.

- 9 -

The Examiner has rejected Claims 18-35 under 35 U.S.C. 101 as being directed towards non-statutory subject matter. Applicant has clarified Claims 18-35 to include "a tangible computer readable medium" in order to avoid such rejection.

The Examiner has rejected Claims 1-11, and 18-28 under 35 U.S.C. 103(a) as being unpatentable over Hultgren (U.S. Patent No. 6,868,391 B1) in view of Official Notice. Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to the independent claims.

With respect to the independent claims, the Examiner has relied on item 300 in Figure 3A from the Hultgren reference to make a prior art showing of applicant's claimed "receiving a request for a ... debit account including payment therefor" (see this or similar, but not necessarily identical language in the independent claims).



(Hultgren, Figure 3A, item 300)

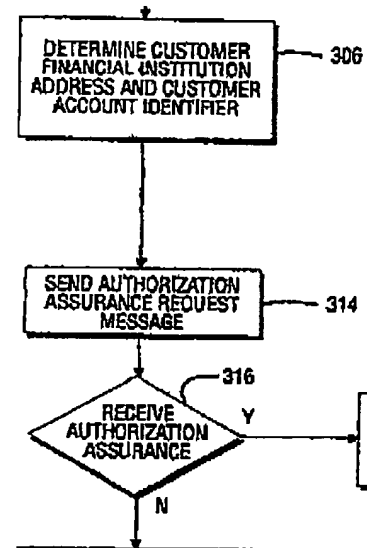
"At telepay TSN 30, upon initially handling the call customer communications, module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)." (Hultgren, Col. 6, lines 22-26, not specifically cited - emphasis added).

Applicant respectfully asserts that item 300 in Figure 3A from Hultgren relied upon by the Examiner merely discloses that "module 202 obtains a customer identifier (e.g., customer directory number) from the call signaling which sets up the call (see step 300 in FIG. 3A)." However, merely obtaining a customer identifier simply fails to disclose "receiving a request for a ... debit account including payment therefor" (emphasis added), as claimed by applicant.

Further, with respect to the independent claims, the Examiner has relied on items 306, 314, and 316 in Figure 3A from Hultgren to make a prior art showing of applicant's

- 10 -

claimed "enabling the ... debit account in response to the request" (see this or similar, but not necessarily identical language in the independent claims).



(Hultgren, Figure 3A, items 306, 314, and 316)

"At step 306, telepay TSN 30 determines the customer financial institution address and the customer account identifier at the customer financial institution. In particular, at step 306 the transfer coordination module 206 sends to the financial institution communication module 208 a signal which includes the current transaction code, the current customer identifier, and (optionally) the transaction amount." (Col. 6, line 66 to Col. 7, line 5, not specifically cited - emphasis added)

"The authorization assurance request message is routed by customer financial institution interface 208-1 over data network N to the customer financial institution address obtained at step 314. The authorization assurance request message, indicated as event E5 in FIG. 1, includes the transaction code, the customer account identifier, the transaction amount, and a message type code." (Col. 7, lines 24-30, not specifically cited - emphasis added)

"As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Otherwise, as shown by step 320, the customer financial institution address and customer account identifier obtained from step 306, along with an indication of receipt of a positive authorization assurance message, are stored in the record for the current transaction in transaction database 220." (Col. 7, lines 39-47, not specifically cited - emphasis added)

Applicant respectfully asserts that items 306, 314, and 316 in Figure 3A from Hultgren relied upon by the Examiner merely disclose “determin[ing] the customer financial institution address and the customer account identifier at the customer financial institution” (emphasis added). Hultgren continues, stating that “[t]he authorization assurance request message is routed ... to the customer financial institution address obtained at step 314” (emphasis added). In addition, Hultgren discloses receiving “the authorization assurance message” in step 316. However, determining the customer financial institution address and the customer account identifier in order to route the authorization assurance request message simply fails to disclose “enabling the ... debit account in response to the request” (emphasis added), as claimed by applicant.

In addition, with respect to the independent claims, the Examiner has relied on item 328 in Figure 3B from the Hultgren reference to make a prior art showing of applicant’s claimed “collecting payment for ... wireless network voice communication over [the] wireless network by billing against the ... debit account” (see this or similar, but not necessarily identical language in the independent claims).



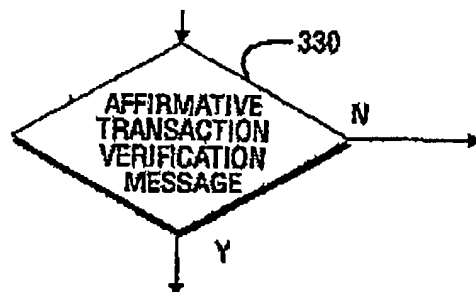
(Hultgren, Figure 3B, item 328)

“If the customer agrees with the information provided in the transaction verification request message, the customer responds with an affirmative transaction verification message (as indicated by event E8 in FIG. 1). Step 328 shows receipt of the transaction verification message from customer mobile station 60.” (Hultgren, Col. 8, lines 23-28, not specifically cited - emphasis added)

Applicant respectfully asserts that item 328 in Figure 3B from Hultgren relied upon by the Examiner teaches the “receipt of the transaction verification message from customer mobile station.” Clearly, showing receipt of the transaction verification message simply fails to even suggest “collecting payment for ... wireless network voice communication over [the] wireless network by billing against the ... debit account” (emphasis added), as claimed by applicant.

- 12 -

Also, with respect to the independent claims, the Examiner has relied on item 330 in Figure 3B from Hultgren to make a prior art showing of applicant's claimed "collecting payment for ... IP usage by billing against the ... debit account, wherein the IP usage is carried out using the wireless network" (see this or similar, but not necessarily identical language in the independent claims).



(Hultgren, Figure 3B, item 330)

"Should it be determined at step 330 that the transaction verification message is negative, the transaction is invalidated and terminated as indicated by step 332." (Hultgren, Col. 8, lines 28-31, not specifically cited - emphasis added)

Applicant respectfully asserts that item 328 in Figure 3B from Hultgren relied upon by the Examiner teaches to determine if "the transaction verification message is negative." However, suggesting to determine if the transaction verification message is negative or affirmative simply fails to suggest "collecting payment for ... IP usage by billing against the ... debit account, wherein the IP usage is carried out using the wireless network" (emphasis added), as claimed by applicant.

In addition, with respect to the independent claims, the Examiner has simply dismissed the same under Official Notice. Specifically, the Examiner has stated that it would have been obvious for one of ordinary skill in the art at the time the invention was made to "add mobile phone usage payment for utility bill payment." Applicant respectfully disagrees. In particular, applicant respectfully asserts that Hultgren's disclosure of "tele/datacommunications network has a service node (TSN) (30) which facilitates payment/transfer from a customer account of a customer financial institution

- 13 -

(80) to a merchant account of a merchant financial institution (90)” (Abstract – emphasis added) in no way suggests a “method for providing a digital wallet for Internet Protocol (IP) usage utilizing a wireless network.” as claimed by applicant. Clearly, Hultgren’s teachings that “[t]he TSN compares the GPS location coordinates of the merchant terminal and the current GPS coordinates of customer mobile station to determine if the two are within an acceptable proximity range” (Col. 2, lines 24-27) *teaches away* from “mobile phone usage” as argued by the Examiner.

Applicant thus formally requests a specific showing of the subject matter in ALL of the claims in any future action. Note excerpt from MPEP below.

“If the applicant traverses such an [Official Notice] assertion the examiner should cite a reference in support of his or her position.” See MPEP 2144.03.

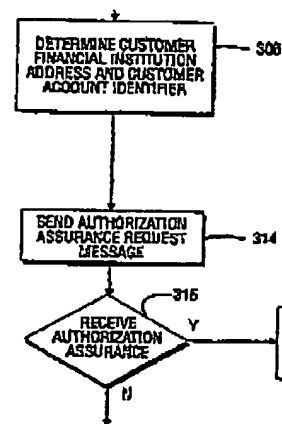
To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has amended the independent claims to further distinguish applicant’s claim language from the Hultgren reference, as follows:

- 14 -

- “(a) prior to allowing wireless network voice communication and IP usage over a wireless network, receiving a request for a pre-paid debit account including payment therefor;
- (b) prior to allowing the wireless network voice communication and the IP usage over the wireless network, enabling the pre-paid debit account in response to the request;
- (c) collecting payment for the wireless network voice communication over [[a]]the wireless network by billing against the pre-paid debit account; and
- (d) collecting payment for the IP usage by billing against the pre-paid debit account, wherein the IP usage is carried out using the wireless network” (see this or similar, but not necessarily identical language in the independent claims).

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 7 et al., the Examiner has relied on the items 306, 314, and 316 from Figure 3A in Hultgren to make a prior art showing of applicant's claimed technique for “transferring the payment from a previous debit account before enabling the debit account in response to the request.”



(Hultgren, Figure 3A, items 306, 314, and 316)

Applicant respectfully asserts that items 306, 314, and 316 from Figure 3A in Hultgren relied upon by the Examiner simply fail to disclose a technique for “transferring

- 15 -

the payment from a previous debit account before enabling the debit account in response to the request" (emphasis added), as claimed by applicant. The items referenced from Figure 3A above simply fail to even suggest any type of "previous debit account" as claimed by applicant.

Further, with respect to Claim 9 et al., the Examiner has relied on the following excerpt from Hultgren to make a prior art showing of applicant's claimed technique "wherein an alert is sent to a user upon the debit account falling below a predetermined amount."

"As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Otherwise, as shown by step 320, the customer financial institution address and customer account identifier obtained from step 306, along with an indication of receipt of a positive authorization assurance message, are stored in the record for the current transaction in transaction database 220." (Hultgren, Col. 7, lines 40-47 - emphasis added)

Applicant respectfully asserts that the excerpt from Hultgren relied upon by the Examiner suggests that "if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60" (emphasis added). Clearly, a negative authorization assurance message fails to disclose the technique "wherein an alert is sent to a user upon the debit account falling below a predetermined amount" (emphasis added), as claimed by applicant.

Additionally, with respect to Claim 10 et al., the Examiner has relied on the item 318 from Figure 3A in Hultgren to make a prior art showing of applicant's claimed technique "wherein the wireless network voice communication and the IP usage is discontinued upon the debit account falling below a predetermined amount."



- 16 -

NOTIFY CUSTOMER OF  
TRANSACTION INVALIDITY

318

(Hultgren, Figure 3A, item 318)

"As indicated by step 316 of FIG. 3A, if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318)." (Hultgren, Col. 7, lines 39-42, not specifically cited - emphasis added)

Applicant respectfully asserts that the item and figure from Hultgren relied upon by the Examiner teach that "if the authorization assurance message is negative (indicating that authorization is not granted), an invalid transaction notification is sent to customer mobile station 60 (see step 318). Clearly, sending an invalid transaction notification when the authorization assurance message is negative fails to even suggest a technique "wherein the wireless network voice communication and the IP usage is discontinued upon the debit account falling below a predetermined amount" (emphasis added), as claimed by applicant.

A notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

- 17 -

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. AMDCP005).

Respectfully submitted,  
Zilka-Kotab, PC.

Kevin J. Zilka  
Registration No. 41,429

P.O. Box 721120  
San Jose, CA 95172-1120  
408-505-5100